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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/075,885	05/11/1998	TOSHIYUKI MATSUMOTO	1232-4442	4196
27123	7590	11/18/2004	EXAMINER	
MORGAN & FINNEGAN, L.L.P.			TILLERY, RASHAWN N	
3 WORLD FINANCIAL CENTER			ART UNIT	
NEW YORK, NY 10281-2101			PAPER NUMBER	
			2612	

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/075,885

Applicant(s)

MATSUMOTO ET AL.

Examiner

Rashawn N Tillery

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-13, 15-17, 19-23, 25-28 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5, 11-13, 15-17, 20, 22, 23, 25-28, 30-32, 34, 35, 37 and 38 is/are allowed.
- 6) ☒ Claim(s) 6-8, 19 and 21 is/are rejected.
- 7) ☒ Claim(s) 9-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed September 7, 2004 have been fully considered but they are not persuasive.

The examiner acknowledges the differences in Applicant's invention as it is described in the specification and the prior art of reference. However, Applicant's claim language as it is currently written is not distinguishable over the prior art.

Applicant's invention is capable of automatically adjusting a zoom lens to a wide-magnification and a focus lens to a short distance to the subject regardless of the distance between the camera and the subject. Nakajima selects a close-up mode, where the zoom lens is adjusted to a wide-magnification and the focus lens is set to a short distance to the subject based on light and distance measuring data.

Applicant's amendments to claims 6 and 33 do not clearly suggest that in accordance with a detected rotation of a display unit, the zoom lens and the focus lens are automatically set to a predetermined position, respectively, regardless of the distance between the camera and the subject. Applicant's use of the term "status" in the amended claims does not correlate to a subject's position relative to a camera.

Therefore, the rejection is maintained.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 6-8, 19, 21, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi et al (US5442453) in view Nakajima et al (US5737646).

Regarding claims 6 and 33, Takagi discloses, in figures 7 and 8, an image sensing apparatus having an image sensing device (64) for sensing the image of a subject, a lens unit (28) for deciding magnification of a sensed image (32- telephoto and wide angle switch), and a lens unit (28) for deciding focal point position of the subject whose image is sensed by the image sensing device (Takagi teaches an automatic focusing circuit; see col. 8, line 65), the apparatus comprising:

display means (17) capable of displaying the image sensed by the image sensing device;

moving means for moving display direction of the display means to a direction of the side of the subject (Takagi teaches a rotary mechanism which allows camera portion 13 to be rotated in the direction of the display side; see col. 9, lines 29-65); sensing means for sensing that the display direction of an image on the display means is being moved to the side of the subject by the moving means (Takagi teaches an inversion detecting switch which is activated when the camera portion is rotated).

Takagi is capable of manually moving the lens unit to a wide-angle side or a telephoto side and automatically adjusting focus. Takagi does not expressly disclose moving the lens to the wide-angle side if the inversion detection switch is activated. Nor does Takagi expressly disclose controlling distance to the subject to a short distance if the inversion detection switch is activated.

Nakajima discloses an auto-focus camera operable in various photographing modes- portrait mode, close-up mode, etc. Nakajima is capable of setting distance data in accordance with a chosen mode- the distance data for close-up mode being shorter than the distance data of all other modes. See figure 5. For example, upon selection of a portrait mode, a distance from the camera to the subject is set (at 3m) and a zooming operation is executed automatically to obtain optimum magnification (see col. 4, lines 4-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Takagi's teachings by including a features taught by Nakajima that would allow the user, upon rotation of the camera unit to the display side, to automatically control the sensed-image magnification of the zoom lens to a wide-angle magnification and control the distance of the subject by the focusing lens to a short distance in front of the image sensing apparatus. It would have been highly desirable for Takagi to implement Nakajima's teachings in an effort to take well-focused pictures suited for each operator's intentions.

Regarding claim 7, see claim 6, above where it is discussed that Nakajima is capable of controlling the sensed-image magnification of the zoom lens to a wide-angle

Art Unit: 2612

limit and controlling distance to the subject, which is controlled by the focusing lens, to a short-distance limit in front of the image sensing apparatus.

Regarding claim 8, see claim 6 above where it is discussed that Nakajima is capable of setting the sensed-image magnification controlled by the control means in accordance with a distance of the subject to the camera; and capable of setting a subject distance at which the focusing lens is brought to focus.

Regarding claims 19 and 36, Nakajima discloses, in figure 5, automatic focusing means (20) for executing automatic focusing after the focusing lens has been controlled by the control means.

Regarding claim 21, Nakajima discloses, in figure 5, the subject distance setting means is capable of setting a subject distance within a range of 10 cm to 1 m (Nakajima sets close-up mode at 0.5 m).

### ***Allowable Subject Matter***

1. Claims 2-5, 11-13, 15-17, 20, 22, 23, 25-28, 30-32, 34, 35, 37 and 38 are allowed.
2. Claims 9-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 9, the prior art does not teach or fairly suggest an image sensing apparatus having an image sensing device, a zoom lens and a focusing lens

comprising display means, moving means, sensing means, control means and recording means, wherein

the recording means records an image based upon an image signal indicative of an image sensed by the image sensing device, and control inhibiting means for inhibiting control by the control means if an image is being recorded by the recording means.

Regarding claim 10, the prior art does not teach or fairly suggest an image sensing apparatus having an image sensing device, a zoom lens and a focusing lens comprising display means, moving means, sensing means, control means and memory means, wherein

the memory means stores the sensed-image magnification controlled by the zoom lens, as well as the subject distance controlled by the focusing lens, when the sensing means has sensed that the display direction of the image on the display means is being moved to the side of the subject.

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 2612

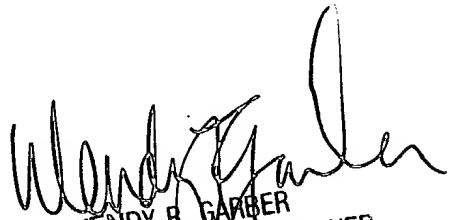
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashawn N Tillery whose telephone number is 703-305-0627. The examiner can normally be reached on 9AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RNT

  
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